

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Administrative Law Judge
United States Coast Guard

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5720
9 September 2019

Freddy Martinez
MuckRock News
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RE: DHS FOIA Appeal Number 2019-HQAP-00327; FOIA Request Number: 2019-HQFO-00415

Dear Mr. Martinez:

This letter concerns your appeal of the Department of Homeland Security's (DHS) Privacy Office's (PRIV) adverse response to your FOIA request 2019-HQFO-00415. In your initial request, you sought materials relating to "Tyler Q. Houlton for the day of April 6th 2017."

On April 4, 2019, PRIV responded to your FOIA request and informed you that it did not locate any documents responsive to your request. You exercised your right to appeal by email on April 11, 2019. I construe your appeal as asserting PRIV conducted an insufficient search.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing FOIA appeals for the Department of Homeland Security General Counsel's office. Therefore, the Office of the Chief Administrative Law Judge hereby renders the official appeal decision on behalf of the Department of Homeland Security.

As set forth below, I am **AFFIRMING** PRIV's response.

Insufficiency of Search

An agency is required to conduct a "reasonable search" pursuant to 5 U.S.C. § 552(a)(3) and each different agency makes the determination of where and how to search for responsive records. *Lechliter v. Rumsfeld*, 182 F. App'x 113, 115 (3d Cir. 2006) (holding that the agency fulfilled their duty to conduct a reasonable search when it searched two offices that it determined to be the only ones likely to possess responsive documents); *Brehm v. DOD*, 593 F. Supp. 2d 49, 50 (D.D.C. 2009) (finding that a search was reasonable where the agency searched two systems likely to have responsive records); *Knight v. NASA*, No. 04-2054, 2006 WL 3780901 (E.D. Cal. Dec. 21, 2006) (finding that there is no requirement that an agency search all possible sources in

response to a FOIA request when it believes all responsive documents are likely to be located in one place). Furthermore, the agency is in the best position to determine how to best search for records in its systems.

Pursuant to relevant authority, the undersigned reviewed the search steps and procedure employed by PRIV in this case. Based on this search, I conclude PRIV conducted a reasonable search as required by FOIA. Accordingly, I am **AFFIRMING** PRIV's response to your FOIA request.

Notwithstanding the above decision, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

This decision is the final action of the Department of Homeland Security concerning DHS FOIA Appeal Number 2019-HQAP-00327; FOIA Request Number: 2019-HQFO-00415. While a comprehensive review of your appeal was made, you may seek judicial review of this decision pursuant to 5 U.S.C. § 552(a)(4)(B) in United States District Court for either: 1) the district where you reside; 2) the district where the agency records are situated; or 3) the District of Columbia.

Sincerely,

A handwritten signature in black ink that reads "Tommy Cantrell". The signature is written in a cursive, flowing style.

Tommy Cantrell
Attorney Advisor
United States Coast Guard
U.S. Department of Homeland Security

Sent: Via email at the address indicated above.